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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

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Application Number

10/070,981

Filed

March 8, 2002

First Named Inventor

Schwartz et al.

Art Unit

3626

Examiner

Dilek B. Cobanoglu

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number **39,142**

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____


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June 23, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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1. The Cited References Fail to Disclose or Suggest
Automatically Selecting a Visit Outline

Independent claim 22 requires that the graphical user interface presented by the medical record system includes “*a reason for visit data entry field for receiving a selection of a patient’s primary reason for a visit,*” and further requires that the system processor “*automatically selects a visit outline from a plurality of visit outlines stored in the memory, the automatically selected visit outline being related to the reason for the patient’s visit.*” These required claim limitations are not present in any of the cited references to Lavin, Campbell or Simborg.

An example of the claimed “*reason for visit data entry field*” is shown in Figure 7 as item 84. The “*reason for visit data entry field*” (item 84) shown in Figure 7 is a drop down box that allows the medical service provider to select a primary reason for the patient’s visit. The selections presented by this data entry field are linked, by the system processor, to a plurality of stored visit outlines that assist the medical service provider by guiding the examination and by listing the specific types of information that should be collected and recorded into the medical record system *in relation to the reason for the patient’s visit*. In the example of Figure 7, the selection of “chest pain” from the data entry field causes the system processor to automatically select and display the stored visit outline related to this problem. For example, as shown in Figure 8 of this application, the selection of “chest pain” as the primary reason for the visit has automatically triggered the “chest pain” visit outline in the patient history and physical examination screen. If the medical service provider had selected a different reason for the patient’s visit in the reason for visit data entry field (84), then the system would have automatically selected a different stored visit outline to guide the examination.

The Final Office Action admits that Lavin does not disclose these claim limitations. (*See*, Final Office Action at page 5, “Lavin fails to expressly teach the selection received in the reason for visit data entry field automatically selects a visit outline related to the reason for the patient’s visit. . .”) No attempt is made in the Final Office Action to show where these claim limitations are present in Simborg. Thus, in order for the obviousness rejection to stand, the required claim limitations must be present in Campbell. They are not.

Although the Final Office Action refers to the following portions of Campbell in support of the allegation that these claim limitations are disclosed: (i) abstract of Campbell; (ii) col. 1, line 64 to col. 2, line 8; (iii) col. 2, lines 14-21; and (iv) col. 13, lines 10-18, the fact remains that Campbell does not disclose a system which automatically selects a visit outline from a plurality of stored visit outlines in relation to the selected primary reason for the patient’s visit, as required by claim 22.

Campbell’s Abstract refers to “physical exam software,” and a “list of possible diagnosis,” and “selecting a treatment protocol,” but it does not disclose or suggest a system having a plurality of visit outlines nor does it disclose or suggest that the visit outlines are automatically selected based upon user input to a reason for visit data entry field. In fact, the Abstract of Campbell tends to indicate that there is only one programmed type of physical exam as distinguished from the “plurality of” visit outlines that are programmed into the claimed system and which are automatically selected based upon the primary reason for the patient’s visit. Although Campbell’s approach may be appropriate for a general physical examination in which there is no particular reason for the patient’s visit, it is inefficient and time-consuming when the patient has come to the medical service provider with a specific problem, such as chest pain. Thus, the Abstract of Campbell does not disclose the required claim language.

Column 1, line 64 through column 2, line 8 of Campbell discusses an “interactive user interface screen for conducting an interactive medical exam,” and also discusses a “treatment protocol” that can be selected by a doctor “such that future interactive exam sessions display reminders to perform services in the protocol.” There is nothing in this portion of Campbell, however, which discloses or suggests a plurality of visit outlines that are automatically selected by the system in relation to the reason for a patient’s visit.

Column 2, lines 14-21 of Campbell discuss the examination screens displayed in his general physical examination, stating that these screens “guide the user through a complete medical exam,” and also that these screens display “predetermined observations and enable the user to select among the observations to record abnormal findings.” Here, Campbell is actually *teaching away* from the presently-claimed invention by stating that his screens “**guide the user through a complete medical exam,**” which as noted above would be very inefficient and time consuming where the patient has come to see the doctor for a particular problem, such as chest pain. There is simply nothing in this portion of Campbell that would disclose or suggest a plurality of stored visit outlines that are automatically selected by the system in relation to the reason for the patient’s visit. To the contrary, in fact, this portion of Campbell teaches a single, general set of “predetermined observations” that relate to “a complete medical exam.”

And finally column 13, lines 10-18 of Campbell describe a series of “buttons” that a user can manually select in order to display a portion of the general physical examination. Figure 4 of Campbell shows this manual selection of the various portions of the physical exam. When a user “selects” a button (420 in Figure 4), the system then brings up a predetermined physical exam screen (Figure 5) in response to the user-selected portion of the overall physical exam. Missing from this portion of Campbell, however, is any disclosure or suggestion of automatically

selecting a specific visit outline that has been customized to guide the examination by the medical service provider in relation to the reason for visit input to the system.

In summary, Campbell does not disclose or suggest a plurality of visit outlines, but rather teaches a single physical examination broken down into a number of areas. Moreover, Campbell does not disclose or suggest automatically selecting one of the plurality of stored visit outlines in response to a selection of the primary reason for the patient's visit, but rather teaches that the user must manually select a sub-set of the single physical examination process. Thus the obviousness rejection should be withdrawn.

2. The Cited References Fail to Disclose or Suggest
 Dynamically Modifying a Visit Outline

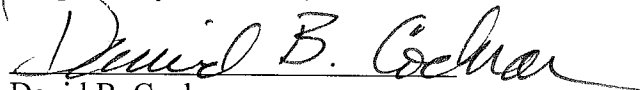
Independent claim 22 also recites the function of “*dynamically modifying the presentation of the information set forth in the item column of the visit outline in response to a user making a selection from a pre-defined set of choices presented in the value column of the visit outline.*” The visit outline described in claim 22 includes “*an item column listing information that should be collected by the medical service provided in relation to the selected primary reason for the patient's visit and a value column that lists the type or format of the collected information.*”

The Final Office Action makes no attempt to show where such a “dynamically modifiable” visit outline is disclosed in either Lavin or Campbell, and thus the claim language must be met by the disclosure of Simborg in order for the obviousness rejection to stand. Although Simborg appears to show something similar to an “item column” and a “value column,” it does not disclose a “visit outline” as claimed, nor is there any evidence of record that would support the conclusion that Simborg's display is “*dynamically modifiable. . . in response*

to a user making a selection from a pre-defined set of choices presented in the value column of the visit outline” as required by claim 22.

The portions of Simborg relied upon in the Final Office Action do not disclose the “dynamically modifiable” visit outline required by claim 22. Column 2, line 63 to column 3, line 13 of Simborg discloses a hierarchical “outline” having a category column and an item column. There is nothing in this portion of the reference that refers to the “outline” being dynamically modifiable. Column 4, lines 18-29 discloses a process whereby a user can manually add items to the outline by clicking certain buttons. Here again, there is nothing about the “outline” being dynamically modifiable *in response to* a user making a selection from a pre-defined set of choices presented in the value column of the visit outline. Rather, in this portion of Simborg, the outline is modified by a user manually adding categories to the outline. Column 4, lines 54-63 refers to something called a “KnowMed,” nothing more. And column 5, lines 44-61 discloses further information about a particular “KnowMed” that presents additional categories that may be added to the outline based on prior patient encounters. Again, however, nothing here discloses a dynamically modifiable visit outline that responds to a user making a selection from a pre-defined set of choices presented in the value column of the visit outline. Therefore, for this additional reason the obviousness rejection over Lavin, Campbell and Simborg should be withdrawn. Independent claim 35 is likewise distinguishable from the cited references.

Respectfully submitted,



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